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JAPAN'S NEW CONSTITUTION

By Kiyoshi K. Kawakami

The new Japanese Constitution, which becomes effective on May 1, contains a revolutionary provision in Article 9, which says:

> "Aspiring sincerely to an international peace based upon justice and order, the Japanese people forever renounces war as a sovereign right of the nation, or the threat or use of force as a means of settling disputes with other nations.
> "For the above purposes land, sea and air forces, as well as other war potential will never be maintained. The right of belligerency of the state will not be recognized."

This provision, whatever the real intent of its framer, is clearly a challenge to the Great Powers which have so far made little progress toward outlawing the atomic bomb, or otherwise achieving the lasting peace without armament for which they formed the United Nations.

The message conveyed by the article quoted is threefold. First, the neutrality of Japan, unarmed and renouncing the right of belligerency, should be held inviolate even in the event of war between its neighbors. Second, only by embracing the pacifism embodied in that provision can the Powers attain the objectives for which UN aspires. Third, any proposal for a "defensive alliance" aimed at a prostrate as well as unarmed Japan is more ingenious than ingenuous, savoring of an attempt to camouflage rivalry, enmity and suspicion among the Great Powers themselves.

Japan's renunciation of war and armament, when read in the light of the alarming warnings sounded by atomic scientists, takes on an added significance. Professor Einstein is emphatic that "only the prevention of war by action on an international scale, which will make preparation for war unnecessary and even impossible, can save us from the consequences" of the invention of the atomic bomb. And the Emergency Commission of Atomic Scientists, of which Professor Einstein is Chairman, is striving to drive home to the public the idea that the process of making atomic bombs, now supposedly an American secret, will soon be -- if it has not already been -- mastered by other nations; that no effective military defense against this new instrument of war is possible; and that another war, in which atomic fission would play a leading part, would surely destroy what is left of our civilization.

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The only people who have so far been victims of atomic blasts are trying to tell us, in their new Constitution, how to forestall the catastrophe predicted.

II

Such are the international implications of the Japanese Constitution. Internally, its greatest significance lies in establishment of the principle that sovereignty rests with the people, not with the Emperor. Whereas the old Constitution declared that "the Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal," the new instrument provides that "the Emperor shall be the symbol of the state and of the unity of the people, deriving its position from the will of the people with whom resides sovereign power."

This principle is confirmed by another article which reads: "Never shall he [the Emperor] have powers related to government." It is further provided that "all property of the Imperial Household shall belong to the state" and that "all expenses of the Imperial Household shall be appropriated by the Diet in the budget."

Before the surrender, Hirohito's holdings in land and securities were enormous, quite out of proportion to the level of wealth of the Japanese people. In addition to his private fortune the Emperor had a liberal account for public expenditure. Now most of his stock and bond holdings are worthless, and such of them as may still be valuable have been confiscated, while his civil list for the current year is reduced to approximately $500,000. Thus the Japanese Emperor's property rights are more rigidly restricted than those of other remaining monarchs, who are allowed to enjoy private property in addition to their civil rights.

Roughly speaking, Hirohito's status today is as it was defined by Japan's Social Democrats in their draft constitution published early last year. Only the Communists, under Moscow's instruction, demanded complete abolition of the "emperor system."

There is no doubt that the Supreme Commander of the Allied Powers acted wisely in retaining the Emperor. Had he turned Japan into a republic the nation would have been much slower in getting started on the road to political reconstruction along democratic lines. SCAP may well point to Italy as justification. In Italy, Palmiro Togliatti, trained in Moscow for 20 years, engineered the plebiscite against the preservation of the monarchy. The resultant confusion, chaos and dislocation are now being ruthlessly exploited with a view to turning Italy Communist.

In Japan, the Emperor, stripped of governmental powers, has become closer to the people and serves as a stabilizing force and a symbol of national unity.

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III

In Western countries it has been generally assumed that the pre-war Japanese Constitution contained no provisions similar to a "bill of rights." This assumption is not entirely accurate.

The old organic law did include a bill of rights almost as comprehensive as the one embodied in the Constitution of the United States. It guaranteed the freedom of religious belief, of speech and of the press, as well as the rights of assembly and petition. It also guaranteed freedom of the home and of the person; freedom of private property from unreasonable and unwarranted search and seizure; the fair trial of the accused and the security and secrecy of private correspondence.

The defect of the old Constitution in this respect was that most of these guarantees were hedged with such qualifying phrases as "within the limits of law" and "within limits not prejudicial to peace and order." For example, the freedom of the press guaranteed by the Constitution was rendered ineffective by such restrictive laws as the "Press Law" and the "Law for Preserving Peace and Order" passed by the Diet under governmental pressure.

To remedy this defect in the old law, the new Constitution is ordained to be the "supreme law of the state." It explicitly invalidates all laws, ordinances, rescripts, regulations and decrees contrary to its provisions.

The Japanese bill of rights as adopted in the new Constitution goes much further than its American counterpart. In addition to the guarantees enumerated in the first 10 Amendments to the United States Constitution, the Japanese instrument guarantees (1) equality before the law regardless of race, creed, sex or social status; (2) the people's right to "minimum standards of wholesome and cultured living in all spheres of life"; (3) their "right and obligation to work" under "standards for working conditions, wages, hours and rest" to be fixed by law; (4) the right of workers to organize and to bargain collectively; and (5) academic freedom.

The Constitution, as originally drafted, guaranteed the "people's right to work." As finally adopted by the Diet, this provision was changed to read: "All people have the right and <u>obligation</u> to work." [Emphasis supplied.] The single word "obligation," inserted undoubtedly with the approval and even under the inspiration of SCAP, is of considerable significance.

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Since the Constitution was drafted, early last year, Japan has been plagued with rampant strikes, obliging SCAP to step in and exercise restraining influence upon exuberant labor. The early ardor of American experts in training Japanese workers in the techniques of aggressive unionism has now cooled. This probably explains the insertion of that significant word "obligation."

IV

General MacArthur has certainly done nothing to minimize the impression that the Constitution was initiated and drafted by the Japanese. However, with the new Constitution in effect it is becoming more widely realized that MacArthur himself was responsible for most of its essential features. That is particularly the case in the non-war and non-armament provisions; and in the sonorous preamble and most of the articles defining the status of the Emperor and the rights of the people.

Because it is an imposed rather than a self-originated code, many American observers are skeptical as to the durability of the new Constitution. Mr. Sumner Welles, for example, is highly doubtful that "such a constitution . . . will ever become a real foundation for Japanese political and social life or that it will be retained in force by the Japanese people once they are free to determine their own destiny."

Seemingly Mr. Welles assumes, as do most Americans, that there had never been liberal thought or a democratic movement in Japan until these were inspired by the Allied conquerors. A conclusion based upon this assumption is likely to be erroneous.

Japan's labor movement has a history of three very active decades. Japanese political Socialism dates from the turn of the century. Neither could make headway because both had to contend with the repressive policy of a reactionary Government. The very fact that General MacArthur released from jail thousands of "thought criminals" attests to the existence of a vigorous underground.

When the domination of the militarists was liquidated the pent-up forces of Leftist thought burst into phenomenal activity. Today, Japan's Social Democrats are a virile political party aspiring for the reins of government. Nor can the Japanese Communists be dismissed as freaks of politics destined to vanish in due course. On the contrary, they are growing rapidly in numbers if not in governmental power.

But in the last analysis, the durability of the non-war and non-armament provisions depends upon the real intentions of the Allies, particularly the United States, rather than upon Japan's own.

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Not Merely Gossip *A Supplement to* Human Events VOL. IV, NO. 17

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By Frank C. Hanighen April 23, 1947

A Day on the Hill. Several hundred of them were filing through the entrance to the Senate side of the Capitol, clad in the sort of uncomfortable-looking, Sunday-go-to-meeting garb of workmen on their day off. These CIO members had been assembled to protest the passage of the Labor bill. An editor of a railway union paper standing nearby observed caustically: "These are the kind of fellows who took the advice of the Commies and voted out their best friends in Congress -- Wheeler and La Follette. Now they wonder why they haven't any friends up here. This mob won't affect one vote, I bet you. This isn't the way to do it -- it's at the ballot box that you affect legislation."

A reporter nodded and described how the lobby had paid visits to all members of his state's Congressional delegation. "All they did was to make the Congressmen stiffer in favor of the bill." This sort of lobbying is usually merely a meaningless annoyance to Congressmen.

The noise of the mass labor demonstration strove, then mingled with that of the countless Easter visitors to the Capitol. Shepherded by a guide, they gazed -- some with puzzled awe, others with stolid vacancy -- at the walls as the guide said, "Lafayette visited the United States in 1824. Now this picture. . . ." Outside the House Floor, the tumult muted the forensic sounds of a powerful voice from within. A Republican Congressman came out of the Floor, smiling cynically: "That's Rayburn (former Democratic Speaker). He's complaining that we're rushing the Labor bill through. We gave it forty days of consideration. Last year, when Rayburn was running things, he gave important measures about forty minutes."

Over in the Senate Office Building in the big Caucus room, there were more smiles. A shock of grey hair over a microphone, and a leonine roar. It was John L. Lewis testifying before the Public Lands Committee on mine safety. The Senators smiled tolerantly, the press table grinned, with the humor of audiences appreciating the stage value of an old and familiar tragedian. Then the roar subsided, and a quiet tone replaced it. Lewis was reading from a paper: "On July 14, 1938, the explosion of the mine at Providence, Kentucky, killed 28 men, leaving 23 widows and 50 orphans. On January 10, 1940, at the No. 1 mine, McDowell county. . . ." The smiles disappeared as Lewis went on, with a subdued drawl. He finished. Then, Senator O'Mahoney: "I believe that the honorable members of this committee will agree with me when I say. . . ."

The drawling words were for the press and public; the roaring for the members of the United Mine Workers, Lewis' constituency. Elsewhere on the Hill -- other words, other audiences. The House Press Gallery was almost deserted; only one correspondent was taking down the words of a Congressman. The correspondent served a dozen dailies in the Southwest. The Congressman was only literally addressing the House and Speaker; he was really speaking for the record, for his constituents who would read the news story or the franked copy of the speech sent him by the Congressman's office. This -- shall we call it? -- "folkway" of Members of Congress puzzles visitors in the spectator galleries, who find debates often repetitious and unnecessarily long. It does indeed retard the business. But it is the hallowed democratic rite of the elected reporting to his electors.

Other newsies seemed to be roving the corridors looking for sub-committee chairmen -- that new governing class created by the Reorganization Act. The Act reduced

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the number of standing committees, but the number of sub-committees has greatly increased. Chairmen of both Committees and sub-committees are, as Lord Bryce in his American Commonwealth described the committee chairman, "a second set of ministers, before whom the departments tremble and who . . . can determine the policy of the branch of the administration which they oversee." Indeed, in the labyrinth of rooms in the Capitol and Congress office buildings, there constantly revolves, without recess or adjournment, the really decisive machinery of the legislative branch. It dwarfs in importance the debates on the Floor.

For example: A little committee secretary popped out of an office and told me about how his piece of the machinery works. The State Department, he said, wanted "that bill" which "costs $600,000." His chairman, a Senator, opposed this measure; would "sit on it until it dies." But State, it seemed, had a friend on the House side, the Chairman of the Foreign Affairs Committee to which the bill was sent for consideration. "But we foxed that game." The secretary had warned the Chairman of the Judiciary Committee that the latter's jurisdiction was infringed by the submission of the bill to Foreign Affairs. The bill should have been sent to Judiciary. Wires were pulled in the House leadership and the bill was taken away from Foreign Affairs and given to Judiciary. "It will be killed," said the secretary, rubbing his palms. And so it goes "up on the Hill."

But one Senator was thinking neither of machinery, nor constituents. His eyes seemed fixed on far-off places which he could not get out of mind. He had just returned that morning by air from a Mediterranean junket. "Palestine -- that's the explosive spot. The Tommies were taking up the floor of the Church of the Nativity on Easter Saturday to look for bombs, they said. They didn't find any. An Arab told us the British were at fault, that Arabs and Jews could get along -- if there was no more Jewish immigration. But if more came, then war would follow between the two races, with Ibn Saud backing the Palestine Arabs. I noticed that we were advised not to take our Arab chauffeur when we went to Tel Aviv; to get a Jewish driver instead. I don't know the answer there"; and, wearily, "I don't know the answer in Greece. I am afraid we're just going to pour more money down the drain." But, next day, the Senator voted for the Greek-Turkish bill -- with reservations.

It was now late afternoon. The Senate had just adjourned, and a prominent Senator strode to the elevator. A few minutes before, he had been needled on the floor by colleagues about his support of "Greek-Turkish." Some of the momentum of the argument lingered in his manner. "What's more important than all this," he emphasized with obvious earnestness, "is an international atomic agreement." Then, as if grappling with magnitudes beyond him, "Now if I were President -- ." He stopped, catching our grin, for the Senator is often mentioned for his party's candidacy in '48, and shook his head, "No. I wouldn't take it for anything in the world." But he smiled, a sly and particularly political smile. We smiled, too.

The crowds were gone. The House had also adjourned. The door of the Appropriations Committee was closed, but typewriter sounds could be heard within. A newsie said, "You'll never get to see him. He's in there under a pile of figures. He won't see anyone." A vision of an exhausted legislator bent over his desk came to us, as sunlight slanted through the window. A mile away, the tourist crowds -- and no doubt the CIO lobbyists too -- were walking under millions of cherry blossoms. It was time to go home. But one more glance.

The corridors were nearly empty. A policeman dozed in a chair. A black-knickerbockered page staggered by under a load of documents. One last tourist, a youth, was gazing, with a touching interest and respect, up at an appallingly ugly statue of a long-forgotten Member of Congress.

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The Braden idea is not dead, nor does it sleep. It is reportedly a strong factor in the State Department's opposition to the War Department's plan for inter-American defense. As explained in this column on April 9, War wants to sell the Latin American republics arms of a standardized, United States pattern. The latter would then have to apply to Washington for ammunition, repairs and replacements. The United States would thereby be able to exert a powerful influence on the Governments of the 20 southern republics. But if State wins its fight against War, then those Governments would turn elsewhere. They could deal with Russia or Britain. Some of the caudillos, however, would undoubtedly seek the weapons -- which incidentally keep them in power -- from a probably very accommodating colleague in Buenos Aires.

Nothing would suit the book of Argentine President Peron better than such a development. Indeed, Latin American observers say that his agents here are hoping that Acting Secretary Acheson will block the War Department measure. Argentina is obtaining arms from Sweden and Switzerland, and has ample funds to increase such imports. The Argentine small-arms factories are being considerably enlarged. Argentine banks, already lending money to other Latin American countries, could afford to grant generous terms to less fortunate neighbors, if the Peron regime guaranteed payment. Thus, to provide arms to other republics, either as broker or manufacturer, or both, would place in Peron's hands a valuable instrument to raise and extend his prestige in the Southern hemisphere.

A solid Argentine-dominated bloc of nations -- a spectre which has long haunted the State Department -- would then become a reality. State, therefore, is actually playing directly into Peron's hands -- not for the first time.

* * * * *

Congressman Taber's radical operation on the Interior Department's requests for funds brought spirited outcries from the patient's journalistic friends -- and some surprise. For, it had been predicted that Congress would not dare to suggest such reductions, least of all Taber's recommended cut of $138 million from the Interior budget. But Taber is more in earnest than popularly supposed, and -- unknown to the press -- he has equipped himself with a highly skilled organization. Over a score of accountants and investigators have been recruited from industry and the professions, most of them for the House Committee, a few for Senate Appropriations. A number of these individuals are highly paid in private business, but they temporarily take the Committees' modest pay in a labor of love. They wish to assist in the task of breaking the front of entrenched bureaucracy.

The news about the recommended Interior cut indicates that the chances of real economy are brighter than hitherto pictured. Progress is certainly claimed by those in a position to know the facts. They say that about one billion dollars is likely to be removed from the War Department budget; and, it is hoped, $750 million from that of the Navy. Secretary Forrestal, it is said, was at first willing to compromise on a $500 million reduction, but then retreated, due to White House orders. Indeed, the budget cutters found the generals and admirals much more obliging than anticipated. But White House orders to obstruct reductions are blamed for delays in the House Committee's recommendations.

There are other fatty areas on which the knife is slicing away. The Veterans Administration may have to discontinue a lot of "non-service-connected" hospitalization and medical treatment expenditures. Savings in the State Department are predicted. The funds of both the Cultural and Public Policy sections will be cut to the bone, if not eliminated. Public housing (FPHA) is undergoing some cruel surgery. And the Government corporations are marked for "rough handling."

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Notes and Quotes

Verbum sap., from Alf M. Landon's address in Kansas City, Missouri, April 22: "It comes with ill grace for an administration to complain about the rising cost of food when the administration itself is piling up millions of bushels of potatoes to let them rot, and otherwise supporting this and that commodity which are part of the standard diet of the American people. It also comes with ill grace for an administration to blast others about the price trend when through the way it is handling its purchases of grain, and other materials for relief, it is encouraging speculation and driving prices to substantially higher levels than an orderly buying program would necessitate. . . . When it does engage upon a program, it must have some idea of its magnitude. If it would permit the markets to know what this is, the markets could adjust themselves in an orderly manner.

"I am not suggesting that we eliminate or curtail our relief program. But I think that in the interest of honesty, the administration has a responsibility for letting the American public know what the effect of its program is on prices -- let the public know that we cannot ship one-third of our wheat supply out of the country without its having an effect upon our cost of living -- that we cannot put through and continue one price support program after another and still expect prices to go down."

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Helen Lombard in a valuable chapter, entitled "Termites," in her book, While We Fought (Charles Scribner's Sons, New York. $3.00.), shows how the fellow travellers in the Government during the war introduced the "party line" into our propaganda: "Shortly after the occupation of Germany by American troops, the education and orientation branch of the Army started producing moving pictures for the guidance of the G.I. in Germany. They were not for release within the United States but one of them was privately shown after a Washington dinner party in honor of Undersecretary of War and Mrs. Patterson.

"The movie portrayed the German people preparing for World Wars I and II. The 'sound' accompanying the film was a man's voice. It exhorted the American soldier to hate all Germans -- from the smallest child to the very aged. 'Of course, someday the German people will have to be re-educated. They will have to be taught the ways of democracy. But that will be done by one of our allies!' -- was the ending message. The company, largely composed of War Department and administration officials applauded vigorously."

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Diana Trilling dissects the idea of "liberalism" in the April Commentary: "There was a time when liberalism referred quite simply to an attitude toward life which was characterized by the free play of the intellect and by the refusal to be guided in one's social and political opinions by prejudice, preconception, or any form of special interest. This is no longer so. Quite the contrary of denoting the free spirit of inquiry, it now describes a definite set of mind, an attitude toward life which operates upon a whole series of preconceptions and imperatives. . . .

"That this set of mind and these formulations of thought have been determined by highly moral considerations must naturally command our sympathy. Nevertheless, if only because objective situations are constantly changing and we need to be elastic to meet these changes, I think it is as urgently necessary to combat 'liberal' dogmatism as it is to combat other, less sympathetic, substitutions for thought. In the degree that 'liberalism,' whatever its good intentions, finds more virtue in conformity to its own preconceptions than it does in the free play of the mind, it must be understood as a potentially dangerous movement in the direction of authoritarianism."

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